

MODEL ORDINANCE CONCEPTS

EXECUTIVE SUMMARY

Counties are seeking guidance on how to update their zoning ordinances to provide for strategic growth of agricultural production while minimizing conflicting land uses. Therefore, one of the first initiatives of the Indiana Land Resources Council (ILRC) has been to develop model agricultural zoning ordinances. During this process, the ILRC has researched how certain counties in Indiana, and counties in other states, are developing their zoning ordinances to ensure that agriculture remains a strong component of the county's economy. The ILRC considered seven potential models to develop in depth. After consideration of the pros and cons of each model, the ILRC decided to focus on developing three of the agricultural zoning concepts.

These ordinances are based on the following set of principles that are fundamental to effective agricultural zoning regulation:

Focus on traditional zoning functions and coordination with state regulation. Traditional zoning functions include considerations such as odor dispersion, traffic impact, water usage, and aesthetics. These considerations complement existing state and federal environmental regulations. The ordinances developed by the ILRC are focused on considerations that are within the parameters of local zoning authority.

Lay a solid planning foundation. Many counties throughout the state have comprehensive plans that are 20-30 years old. These plans are outdated and no longer serve as a roadmap for the future of a community. It is critical that counties have laid a solid planning foundation before attempting to construct regulatory responses through zoning regulation. The comprehensive plan provides a context and basis for difficult zoning decisions.

Being proactive rather than reactive. Implementation of new agricultural regulations should take place prior to a new or expanded operation being proposed. This proactive approach provides a better environment for developing a county's policy on agricultural growth.

Imposing objective, science based standards. Development and performance standards for new or expanding agricultural operations should be objective and science based. Objective standards provide for efficiency in the decision making process, which is important to county plan commissions and ensures an applicant is successful in capitalizing on a business opportunity. Requirements for agricultural operations should also be science based, such as separation distances based on scientific measurements of odor dispersion.

Utilization of density measures to minimize conflicting uses. A fundamental principal of zoning is separation of conflicting uses. The model ordinances exemplify several approaches to address the land use needs of agriculture while also accommodating rural residential development. Some of these approaches include rural estate districts, a special exception process for residential development in agricultural zones, and utilizing a maximum lot size in conjunction with cluster development to manage subdividing of large tracts of land.

Notification as a component of rural residential development. It is critical that individuals who are moving to an agricultural zone are notified of the types of agricultural activities that occur in these areas. An effective tool to ensure this notification is the use of an agricultural clause with

an accompanying deed restriction to notify successive owners. An agricultural clause notifies individuals who seek to build a home in a rural area that they may experience noise, dust, and odor associated with generally accepted farming practices.

Requirements for non-conforming uses. Addressing pre-existing non conforming uses is an essential consideration when a county is revising its zoning ordinance. Non conforming agricultural uses need to have the ability to expand in order to remain competitive. In addition, there must be requirements to minimize conflicts between non conforming residential uses and new or expanded agricultural activities.

Allow for sufficient flexibility to be adapted to regional and county needs.

Indiana's counties are diverse with regard to population density, types of agriculture, and the extent of agricultural industry that takes place in their county. It is important to note that any requirements contained in these ordinances need to be evaluated for their suitability for a specific county.

The ILRC is considering the following models as guidance tools for counties during the process of revising their zoning ordinance:

Multiple Agricultural Districts. The multi tiered agricultural zone structure is a division of land currently zoned agricultural to reflect different types of modern agriculture. When there are proactive determinations made regarding where certain types of agriculture will occur, it offers residents moving into an agricultural zone greater predictability of the types of agriculture that will occur nearby. It also clearly indicates to producers where their type of agricultural business is welcome and supported by local planning policies.

Limited Use with Development Standards. In a limited use approach, objective development standards are set forth within the zoning ordinance as conditions to a permitted use rather than having a special exception process for new agricultural operations. This approach provides an applicant with clear guidance on what is expected from the plan commission to receive local approval. These standards should be science based, such as using proven odor abatement measures as an option to reduce a maximum separation distance.

Site Scoring System. The site scoring system is a mechanism to approve local application for a new livestock facility through achievement of a predetermined score based on a series of objective criteria. The score requirement is used in conjunction with minimal setbacks. This approach recognizes the difference in farms by providing many options to meet the minimum score.

The model ordinances are mutually exclusive of one another. They exemplify three separate approaches to agricultural zoning. However, the ordinances do use several common tools, such as an agricultural clause and reciprocal separation distance provisions.

Land use is a firmly rooted local control issue, and the ILRC is merely an advisory body to provide resources to local government. There are many different strategies to accommodate the land use needs of a community. The best approach for each county will be tailored to its unique characteristics.